IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 336 of 1992

Date of Decision :- March 20, 2007

Rajinder Singh ....PETITIONER

VERSUS

State of Punjab ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Neeraj Khanna, Advocate (Amicus Curiae)
for the petitioner.

Mr. Manwinder Singh Sidhu, DAG Punjab.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 7.5.1992 of the Sessions Judge, Faridkot, whereby he modified the judgment dated 25.11.1991 of the Sub Divisional Judicial Magistrate, Faridkot and reduced the various terms of sentence of petitioner Rajindner Singh son of Gurdev Singh and maintained his conviction under Sections 326/324/323/34 IPC.

The case of the prosecution is that Malkiat Singh, Gurmit Singh and Sewa Singh all being sons of Ajmer Singh had 12-13 acres of

land in Basti Lahorian Jalalabad road, Muktsar, which is under their cultivation. On 7.6.1989 they borrowed the turn of water from one Bhappa Singh for irrigating their land. They got the water at 7.30 a.m. Irrigation was to be done till 10.20 a.m. Thereafter, it was the turn of Gurdev Singh. At 10.00 a.m. Gurdev Singh and his sons Jabarjang Singh alias Doli and Rajinder Singh (petitioner) intercepted the flow of water and diverted into their own fields. Complainant party asked them to take their turn of water according to their time, but instead Gurdev Singh and his sons started abusing them. Thereafter, Jabarjang Singh alias Doli gave a kasoli blow to Malkiat Singh on his right shoulder and right thumb. He gave 3-4 kasoli blows to Malkiat Singh, which fell on his left hand and flank. Sewa Singh PW stepped forward to save Malkiat Singh. Petitioner Rajinder Singh gave a gandasa blow to Sewa Singh, which fell on his right wrist.

ASI Kuljit Singh reached Civil Hospital, Muktsar, where injured had been admitted and his (Malkiat Singh) statement Ex.PA was recorded. FIR Ex.PA/1 was thereafter recorded under Sections 326/34, 324, 323 IPC.

The prosecution to prove its case brought into the witness box Malkiat Singh as PW1, Sewa Singh as PW2, Gurmit Singh as PW3, Dr. S.S.Toor as PW4, SI Kuljit Singh as PW5 and Balwinder Singh as PW6.

I have heard the learned counsel for the parties, perused the record and the impugned judgments with their assistance.

Learned counsel for the petitioner has argued, that there is no motive for the commission of the offence. What happened was at the spur of the moment. Complainant had taken away the turn of water of the

petitioner. Water for the purposes of irrigation is a property right. It was in his self defence that the petitioner and other co-accused caused injuries to Malkiat Singh and Sewa Singh. There was no common intention on the part of the petitioner to inflict injuries and an unfortunate development took place on a sudden quarrel.

I do not find any merit in the arguments of learned counsel for the petitioner. Conviction of the petitioner is maintained.

Sentence of the petitioner is on the higher side. Revision is of the year 1992 and the occurrence had taken place on 7.6.1989. The sword of conviction is hanging on the head of the petitioner for the last 18 years. This itself is a punishment. Sentence of the petitioner is modified to that already undergone.

With the above modification in sentence, revision petition is dismissed.

March 20, 2007 **(MEHTAB S.GILL)**
S.K.Arora **JUDGE**